

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-72732; File Nos. SR-NYSE-2011-55; SR-NYSEAmex-2011-84)

July 31, 2014

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Granting an Extension to Limited Exemptions From Rule 612(c) of Regulation NMS In Connection With the Exchanges' Retail Liquidity Programs Until March 31, 2015

On July 3, 2012, the Commission issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")¹ that granted the New York Stock Exchange LLC ("NYSE" or "Exchange") and NYSE MKT LLC² ("NYSE MKT" and, together with NYSE, the "Exchanges") limited exemptions from the Sub-Penny Rule in connection with the operation of each Exchange's Retail Liquidity Program ("Programs").³ The limited exemptions were granted concurrently with the Commission's approval of the Exchanges' proposals to adopt their respective Retail Liquidity Programs for one-year pilot terms.⁴ The exemptions were granted coterminous with the effectiveness of the pilot Programs; both the pilot Programs and exemptions are scheduled to expire on July 31, 2014.⁵

¹ 17 CFR 242.612(c).

² At the time it filed the original proposal to adopt the Retail Liquidity Program, NYSE MKT went by the name NYSE Amex LLC. On May 14, 2012, the Exchange filed a proposed rule change, immediately effective upon filing, to change its name from NYSE Amex LLC to NYSE MKT LLC. See Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR-NYSEAmex-2012-32).

³ See Securities Exchange Act Release No. 67347, 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55; SR-NYSEAmex-2011-84) ("Order").

⁴ See id.

⁵ The pilot term of the Programs was originally scheduled to end on July 31, 2013, but the Exchanges extended the term for another year, through July 31, 2014. See Securities Exchange Act Release Nos. 70096 (August 2, 2013), 78 FR 48520 (August 8, 2013) (SR-NYSE-2013-48), and 70100 (August 2, 2013), 78 FR 48535 (August 8, 2013) (SR-NYSEMKT-2013-60). When the pilot term of the Programs was extended, the Commission granted the Exchanges' request to also extend the Sub-Penny Exemption through July 31, 2014. See Securities Exchange Act Release No. 70085 (July 31, 2013), 78 FR 47807 (August 6, 2013).

The Exchanges now seek to extend the exemptions until March 31, 2015.⁶ The Exchanges' request was made in conjunction with immediately effective filings that extend the operation of the Programs through the same date.⁷ In their request to extend the exemptions, the Exchanges note that the participation in the Programs has increased more recently. Accordingly, the Exchanges have asked for additional time to allow themselves and the Commission to analyze more robust data concerning the Programs, which the Exchanges committed to provide to the Commission.⁸ For this reason and the reasons stated in the Order originally granting the limited exemptions, the Commission finds that extending the exemptions, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Rule 612(c) of Regulation NMS, each Exchange is granted a limited exemption from Rule 612 of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its Retail Liquidity Program, until March 31, 2015.

The limited and temporary exemptions extended by this Order are subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934.

⁶ See Letter from Martha Redding, Chief Counsel, NYSE, to Kevin M. O'Neill, Deputy Secretary, Securities and Exchange Commission, dated July 30, 2014.

⁷ See Securities and Exchange Commission Release Nos. 72629 (July 16, 2014), 79 FR 42564 (July 22, 2014) (SR-NYSE-2014-35) and 72625 (July 16, 2014), 79 FR 42566 (July 22, 2014) (SR-NYSEMKT-2014-60).

⁸ See Order, supra note 3, 77 FR at 40681.

Responsibility for compliance with any applicable provisions of the Federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(83).